



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

08/987, 468 12/10/97 GERS-BARLAG H BEIERSDORF

| <input type="checkbox"/> | EXAMINER |
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|--------------------------|----------|

HM12/1222

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| LAMM, M | |
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ART UNIT PAPER NUMBER

1616

14

DATE MAILED:

12/22/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| | | |
|------------------------|--------------------------------------|---|
| Advisory Action | Application No. 08/987,468 | Applicant(s) Gers-Barlag et al. |
| | Examiner Marina Lamm | Group Art Unit 1616 |

THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) expires _____ months from the mailing date of the final rejection.
- b) expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on _____ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 3, 1999 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- The proposed amendment(s):
 - will be entered upon filing of a Notice of Appeal and an Appeal Brief.
 - will not be entered because:
 - they raise new issues that would require further consideration and/or search. (See note below).
 - they raise the issue of new matter. (See note below).
 - they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
 - they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

Applicant's response has overcome the following rejection(s):
the double patenting rejection has been withdrawn in view of the arguments presented by the Applicant

- Newly proposed or amended claims _____ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:
polyglyceryl and monoglyceryl surface active agents are used for the same art recognized purpose and, therefore, it would have been obvious to substitute one for another as discussed in the 06/03/99 Office Action.
- The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: _____

Claims objected to: _____

Claims rejected: 12-26

- The proposed drawing correction filed on _____ has has not been approved by the Examiner.
- Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). _____.
- Other

Art Unit: 1616

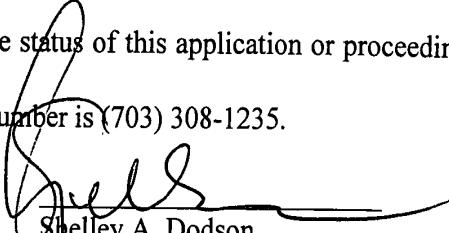
DETAILED ACTION

1. The amendment after the final rejection filed 12/03/99 has been entered.
2. In response to the Applicant's request to withdraw the finality, it is noted that the Applicant canceled original Claims 1, 2 and 4-11 and presented new Claims 12-26 having a different scope after the first Office Action. Therefore, the finality of the second Office Action was necessitated by the amendment and is considered proper. In addition, the double patenting rejection presented in the final Office Action (dated 06/03/99) for the first time, is now has been reconsidered and withdrawn rendering the Applicant's request to withdraw the finality moot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (703) 306-4541. The examiner can normally be reached on Monday to Friday from 9 to 5.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.


Shelley A. Dodson
Primary Examiner
Art Unit 1616


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December 17, 1999